

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DECOTIIS, FITZPATRICK & COLE, LLP

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Attorneys for Plaintiff Texas Eastern Transmission, LP

TEXAS EASTERN TRANSMISSION, LP, a limited partnership of the State of Delaware Plaintiff, v. 0.077 Acres Of Land, More or Less, In The City of Jersey City, Hudson County, New Jersey; COLES JERSEY DEVELOPMENT CO., LLC; OGDEN REALTY CO.; JANE AND JOHN DOES 1 through 50 (fictitious name defendants); and ABC BUSINESS ENTITIES 1 through 50 (fictitious name defendants), Defendants.	Civil Action No. _____ VERIFIED COMPLAINT IN CONDEMNATION
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Plaintiff Texas Eastern Transmission, LP (hereinafter "Texas Eastern") brings this action to condemn a permanent easement on property in Jersey City that are needed for an interstate natural gas pipeline project.

BACKGROUND AND NATURE OF THE ACTION

1. Texas Eastern is a natural gas company within the meaning of the Natural Gas Act, 15 U.S.C., § 717 et seq., (the "Natural Gas Act"). It owns and operates an interstate natural gas transmission system which extends through the Gulf Coast, Midwest and Northeast, terminating in the metropolitan New York City area.
2. On December 20, 2010, pursuant to provisions of the Natural Gas Act, Texas Eastern

and its affiliate, Algonquin Gas Transmission, LLC ("Algonquin") applied to the Federal Energy Regulatory Commission ("FERC") for authority to construct and operate the New Jersey-New York Expansion Project ("NJ-NY Project" or "Project").

3. The NJ-NY Project involves, among other things, the construction and operation of approximately 19.8 miles of natural gas pipeline and associated equipment and facilities in New Jersey, New York and Connecticut. Of this total, 15.0 miles consist of new 30-inch-diameter pipeline in the Boroughs of Staten Island and Manhattan, New York, and the Cities of Bayonne, Jersey City, and Hoboken, New Jersey, and 4.8 miles consist of 42-inch-diameter replacement pipeline in the Borough of Staten Island, New York and the City of Linden, New Jersey.
4. The NJ-NY Project: (a) provides new points of interconnection for existing and new customers, including New Jersey and New York local distribution companies, to deliver diverse sources of natural gas supply to high growth New Jersey and New York markets, including a new direct pipeline connection to the Borough of Manhattan; (b) meets escalating residential and commercial demands for energy with clean-burning natural gas in the growing New Jersey and New York metropolitan area; (c) provides new and enhanced energy infrastructure to support economic development in the New Jersey and New York metropolitan area; and (d) provides opportunities to improve regional air quality by utilizing clean-burning natural gas in lieu of fuel oil in existing and future residential, commercial and industrial facilities, thereby significantly reducing greenhouse gas emissions and other pollutants.
5. On May 21, 2012, FERC issued, in its Docket No. CP11-56-000, a Certificate of Public Convenience and Necessity ("Certificate") authorizing Texas Eastern and Algonquin to construct, operate, and maintain the Project. The Certificate orders a Project in-service

date of November 1, 2013.

6. In furtherance of the Project, Texas Eastern needs to acquire a permanent easement on a 0.077 acre portion of property identified on the official tax map of Jersey City as Block 6005, Lot 7 (the "Property").

ACQUISITION OF REQUIRED RIGHTS-OF-WAY

7. Construction of the Project began on or about June 29, 2012. The Project was completed by the November 1, 2013 in-service date.
8. Texas Eastern, as holder of the Certificate, is authorized and empowered by 15 U.S.C. § 717f(h) of the Natural Gas Act to exercise the right of eminent domain to acquire the easement on the Property.

JURISDICTION AND VENUE

9. Jurisdiction for this action is based upon 15 U.S.C. § 71.1f(h). The estimated amount of compensation for the Property exceeds \$3,000.00.
10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 15 U.S.C. § 717f(h) because the Property is situated in the District.

PARTIES

11. Texas Eastern is a Delaware limited partnership having its principal offices at 5400 Westheimer Court, Houston, Texas, and having local offices at 150 Warren Street, 2nd Floor, Jersey City, New Jersey 07302.
12. Coles Jersey Development Co., LLC is the fee owner of Block 6005, Lot 13 and possibly a portion of Block 6005, Lot 7 on the official tax map of Jersey City.
13. Ogden Realty Co. is the former owner of Block 6005, Lot 13 who may have a claim to compensation for an easement on a portion of Block 6005, Lot 7 by virtue of a Consent

Order for Final Judgment Fixing Compensation entered in Docket No. 12-3412-SRC.

14. Defendants, John and Jane Does 1 through 50 are fictitious name defendants who may have unknown interests in the Property.
15. Defendants, ABC Business Entities 1 through 50 are fictitious name defendants who may have unknown interests in the Property.

CAUSE OF ACTION

16. Texas Eastern requires a permanent easement on the Property for the purposes of, among other things, constructing, maintaining and operating the NJ-NY Project. The approximate size of the easement is 0.077 acres as shown on Drawing No. Tract HUD-98.3 (the "Property"), a copy of which is attached hereto as **Exhibit A**.
17. Texas Eastern negotiated with New Jersey Transit Corporation and was granted an easement for Tract HUD-98.2 (Block 6005, Lot 7) by Grant of Easement Agreement dated October 5, 2012 recorded on October 12, 2012 in the Hudson County Register of Deeds in Book 8874, Page 698.
18. Texas Eastern acquired temporary and permanent easements by Order of Taking entered June 28, 2012 in Docket No. 12-3412-SRC on the property identified as Tract HUD-98.3 (Block 6005, Lot 13) from Ogden Realty Co. The parties reached a settlement of \$3,500,000.00 for the acquisition of Tract HUD-98.3 (Block 6005, Lot 13) and a grant of easement rights on Tract HUD-98.3 (Block 6005, Lot 7).
19. Consistent with the terms of the settlement between the parties, Texas Eastern sought an instrument granting easement rights for Tract HUD-98.3 (Block 6005, Lot 7) from Coles Jersey Development Co., LLC. Counsel for Texas Eastern communicated with Daniel Gans, representative of Coles Jersey Development Co., LLC, to obtain a grant of

easement for Tract HUD-98.3 (Block 6005, Lot 7).

20. After Texas Eastern determined to acquire the rights-of-way and easements described above, it attempted in good faith to reach a voluntary agreement with the defendant owner thereof for the acquisition of the required rights.
21. Of the total \$3,500,000.00 settlement for acquisition of easements on Block 6005, Lots 7 & 13, the amount of \$255,000.00 is allocated for the acquisition of the Tract HUD-98.3 easement to be acquired on Block 6005, Lot 7.
22. Plaintiff seeks to acquire an easement identified as Tract HUD-98.3 from Coles Jersey Development Co., LLC to the extent that entity as fee owner of Block 6005, Lot 13 claims fee ownership of a portion of Block 6005, Lot 7.
23. Plaintiff has been unable to acquire a grant of easement for Tract HUD-98.3 on Block 6005, Lot 7 from Coles Jersey Development Co., LLC.
24. The names, addresses and interests of the persons or entities appearing of record to have any interest in the subject property, and the names of such persons or entities claiming any interest therein, are set forth under "PARTIES" above.

WHEREFORE, Texas Eastern requests that the Court:

- a) enter an Order of Taking allowing Texas Eastern to take the permanent easement on the Property;
- b) issue a preliminary injunction allowing Texas Eastern to immediately enter the easement on the Property;
- c) ascertain the amount of the just compensation to be paid to the owners of the Property for the easement taken by Texas Eastern; and

- c) award Texas Eastern any other relief that may be appropriate or necessary.

DECOTIS, FITZPATRICK & COLE, LLP
Attorneys for Plaintiff,
Texas Eastern Transmission, LP

Dated: January 9, 2014

By: s/ Jeffrey D. Smith

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Teaneck, New Jersey 07666
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VERIFICATION

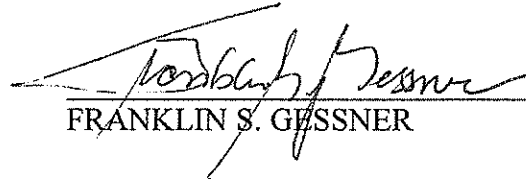
STATE OF NEW JERSEY :

: SS


COUNTY OF HUDSON :

Franklin S. Gessner, of full age, being duly sworn according to law, on his oath, depose and says:

1. I am the Right-of-Way Manager for the New Jersey-New York Expansion Project for Texas Eastern Transmission, LP, and am its duly authorized agent in this behalf.
2. I am the person responsible for supervising Texas Eastern's efforts to acquire the easements needed to construct the New Jersey-New York Expansion Project.
3. I have read the foregoing Verified Complaint and am familiar with its contents.
4. The matters and statements set forth in the said complaint are true to the best of my knowledge and belief.
5. The matters in controversy in this action are not the subject of any other action pending in any court and no other action is contemplated.
6. I am not aware of any additional party who should be joined in this action.


FRANKLIN S. GESSNER

Sworn to and subscribed to
before me this 9th day of
January, 20 14


Attorney at Law
State of New Jersey

TEXAS EASTERN TRANSMISSION, LP, a limited partnership of the State of
Delaware,

Plaintiff,

v.

0.077 Acres Of Land, More or Less, In The City Of Jersey City, Hudson County,
New Jersey; COLES JERSEY DEVELOPMENT CO., LLC; OGDEN REALTY
CO.; JANE AND JOHN DOES 1 through 50 (fictitious name defendants); and
ABC BUSINESS ENTITIES 1 through 50 (fictitious name defendants),

Defendants.

Exhibit A

To Verified Complaint

EXHIBIT A

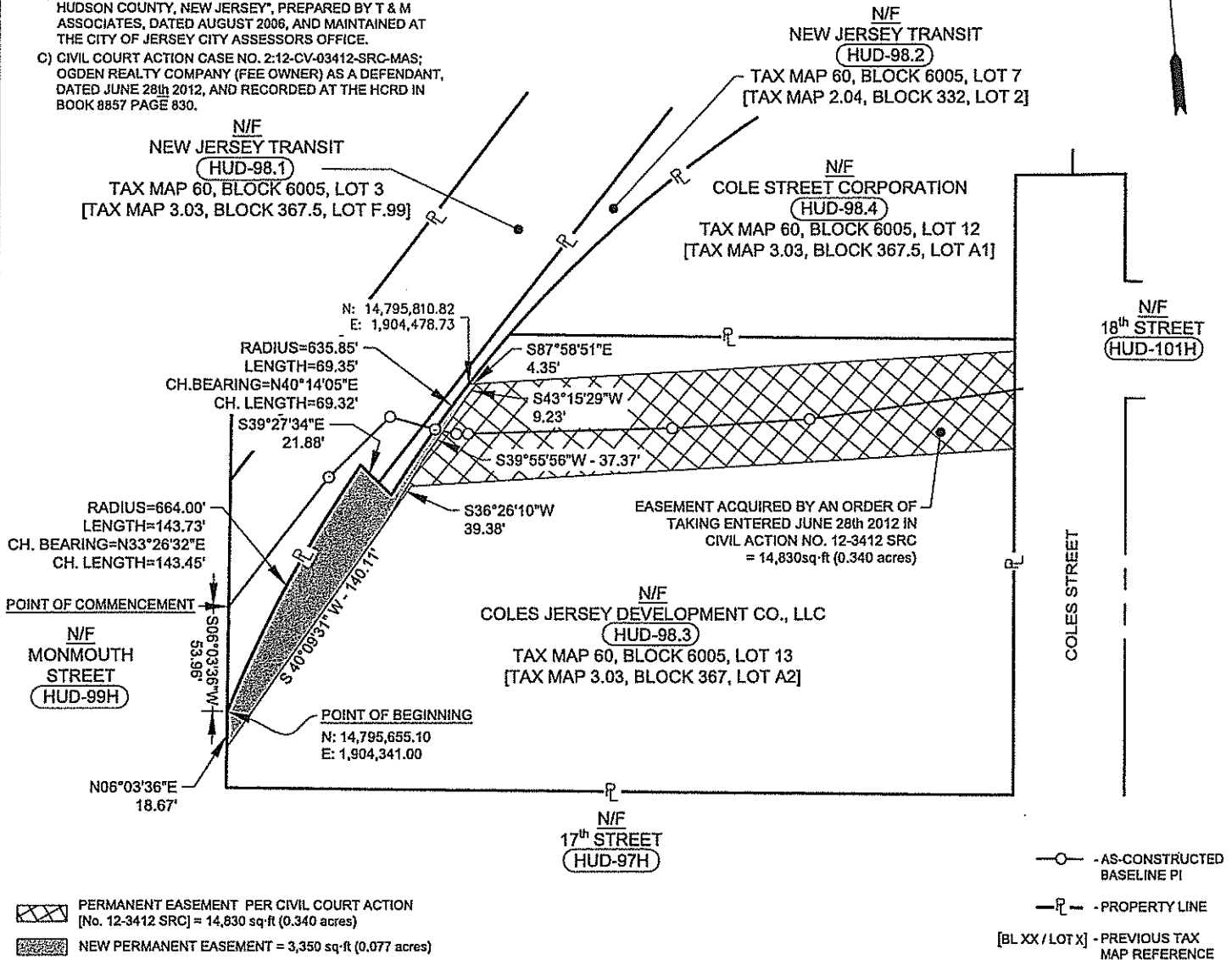
HUDSON COUNTY, NEW JERSEY

CITY OF JERSEY CITY

TRACT HUD-98.3

REFERENCES:

- A) A PLAN ENTITLED "MAJOR FINAL SUBDIVISION MAP", PREPARED BY NAIK-PRASAD, INC., DATED JANUARY 18 2001, AND RECORDED AT THE HCRD AS MAP FILE 3811.
- B) A PLAN ENTITLED "TAX MAP 60, CITY OF JERSEY CITY, HUDSON COUNTY, NEW JERSEY", PREPARED BY T & M ASSOCIATES, DATED AUGUST 2006, AND MAINTAINED AT THE CITY OF JERSEY CITY ASSESSORS OFFICE.
- C) CIVIL COURT ACTION CASE NO. 2:12-CV-03412-SRC-MAS; OGDEN REALTY COMPANY (FEE OWNER) AS A DEFENDANT, DATED JUNE 28th 2012, AND RECORDED AT THE HCRD IN BOOK 8857 PAGE 830.



NOTES:

- 1) CURRENT OWNER:
COLES JERSEY DEVELOPMENT CO., LLC
HCRD DEED BOOK 8922 PAGE 716;
- 2) THE LOCUS PARCEL IS DEPICTED AS LOT 13, BLOCK 6005, ON THE CITY OF JERSEY CITY ASSESSORS MAP 60. ABUTTING PROPERTY OWNER INFORMATION REFERENCED HEREON WAS TAKEN FROM THE HUDSON COUNTY ASSESSOR'S DATA AS OF THE DATE OF THIS SURVEY.
- 3) THE BOUNDARIES AS SHOWN HEREON ARE NOT THE RESULT OF A BOUNDARY SURVEY, ARE BASED ON THE LOCUS DEED(S) AND MAP REFERENCES A & B, AND ARE SUBJECT TO REVISION UPON A FULL SURVEY BEING PERFORMED.
- 4) THE BEARINGS SHOWN HEREON REFER TO UTM ZONE 18

NORTH OF THE NORTH AMERICAN DATUM OF 1983, US FEET AND ARE BASED ON GPS OBSERVATIONS. DISTANCES SHOWN ARE GRID DISTANCES - APPLY APPROPRIATE SCALE FACTOR TO CONVERT TO GROUND DISTANCES.

- 5) THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC-NY, P.C. PURSUANT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN SPECTRA ENERGY TRANSMISSION, LLC AND SGC-NY, P.C., DATED: JANUARY 3RD, 2012. CERTIFICATE OF AUTHORIZATION NO. 24GA28179000.
- 6) THE FOLLOWING ITEMS HAVE BEEN OMITTED FROM THE PLAN PER THE CONTRACT AGREEMENT:
-FENCE & STREAM LOCATIONS -TRAVELED WAYS
-LOCATION OF BUILDINGS -FOREIGN UTILITY LINES

- 7) PROPERTY CORNERS HAVE NOT BEEN SET PER CONTRACT AGREEMENT.
- 8) THIS PLAN IS THE RESULT OF A FIELD SURVEY CONDUCTED BY SGC-NY, P.C., BETWEEN DECEMBER 2009 AND SEPTEMBER 2013.
- 9) LIMITED SUBSURFACE INVESTIGATION HAS BEEN PERFORMED BY SGC-NY, P.C. NEW JERSEY ONE-CALL SHOULD BE CONTACTED PRIOR TO COMMENCING ANY EXCAVATION (800-272-1000).

PREPARED BY



SGC ENGINEERING, LLC

501 County Road
Westbrook, Maine 04092
Tel: 207-347-8100
Fax: 207-347-8101

OWNER COLES JERSEY DEVELOPMENT CO., LLC

LOCATION HUDSON COUNTY, NJ

ADDNL LINEAR PIPELINE
ACROSS PROPERTY

± 4 FT

PERM. ACCESS ROAD
ACROSS PROPERTY

NA

ADDNL PERMANENT
EASEMENT = 0.077 AC.

DRN. BY MMM

CKD. BY DGM

APPD. BY SET

DATE
01/08/2014

SCALE:

DWG. NO.
HUD-98.3TRACT NO.
HUD-98.3ALIGNMENT SHT. NO.
LD-A-1077

PERMANENT EASEMENT LOCATION

Texas Eastern Transmission, LP
5400 Westheimer Ct. Houston, TX 77056-5310 (713) 627-5400

TEXAS EASTERN TRANSMISSION, LP
 AREA OF PERMANENT EASEMENT
 TAX MAP 60 BLOCK 6005 LOT 13
 CITY OF JERSEY CITY, HUDSON COUNTY
 NEW JERSEY

A permanent easement of varying width, in over and across the lands of COLES JERSEY DEVELOPMENT CO., LLC, designated as Tax Map 60 Block 6005 Lot 13 (formerly known as Tax Map 3.03 Block 367 Lot A2) on tax maps for the City of Jersey City, Hudson County, New Jersey, and more particularly described in Deed Book 8922 Page 716 as recorded in the Hudson County Registry. Said permanent easement as it pertains to the locus parcel herein is more particularly bounded as follows:

COMMENCING at a point of intersection of the apparent easterly right-of-way line of Monmouth Street being also the westerly boundary of land now or formerly of New Jersey Transit designated as Tax Map 60 Block 6005 Lot 3 with the City of Jersey City, with the baseline of a 30" gas pipeline as constructed, thence;

S 06°03'36" W	by and along said land of New Jersey Transit and the apparent easterly sideline of Monmouth Street a distance of fifty-three and ninety-six hundredths feet (53.96') more or less, to said land of the Grantor being COLES JERSEY DEVELOPMENT CO., LLC and the POINT OF BEGINNING (said point having UTM Zone 18 North NAD83 US Survey Feet Coordinates of North 14,795,655.10 and East 1,904,341.00), thence;
Northeasterly	by and along land of the Grantor and said land of New Jersey Transit, on a curve to the right with a radius of six hundred sixty-four feet (664.00') an arc length of one hundred forty-three and seventy-three hundredths feet (143.73'), and a chord of which bears N33°26'32"E a length of one hundred forty-three and forty-five hundredths feet (143.45') more or less to a point, thence;
S 39°27'43" E	by and along land of the Grantor, said land of New Jersey Transit, and other land now or formerly of New Jersey Transit designated as Tax Map 60 Block 6005 Lot 7 with the City of Jersey City, a distance of twenty-one and eighty-eight hundredths feet (21.88') more or less to a point, thence;
Northeasterly	by and along land of the Grantor and said land of New Jersey Transit, on a curve to the right with a radius of six hundred thirty-five and eighty-five hundredths feet (635.85') an arc length of sixty-nine and thirty-five hundredths feet (69.35'), and a chord of which bears N40°14'05"E a length of sixty-nine and thirty-two hundredths feet (69.32'), more or less to a point (said point having UTM Zone 18 North NAD83 US Survey Feet Coordinates of North 14,795,810.82 and East 1,904,478.73), thence;
S 87°58'51" E	passing through land of the Grantor a distance of four and thirty-five hundredths feet (4.35') more or less to a point on the westerly extent of an existing easement of TEXAS EASTERN TRANSMISSION, LP per an Order of Taking in Civil Action No. 12-3412, thence;
S 43°15'29" W	continuing through land of the Grantor, by and along said existing permanent easement of TEXAS EASTERN TRANSMISSION, LP a distance of nine and twenty-three hundredths feet (9.23') more or less to a point, thence;

S 39°55'56" W	continuing through land of the Grantor, by and along said existing permanent easement of TEXAS EASTERN TRANSMISSION, LP a distance of thirty-seven and thirty-seven hundredths feet (37.37') more or less to a point, thence;
S 36°26'10" W	continuing through land of the Grantor, by and along said existing permanent easement of TEXAS EASTERN TRANSMISSION, LP a distance of thirty-nine and thirty-eight hundredths feet (39.38') more or less to a point, thence;
S 40°09'31" W	passing through land of the Grantor a distance of one hundred forty and eleven hundredths feet (140.11') more or less to a point, thence;
N 06°03'36" E	by and along land of the Grantor and the apparent easterly sideline of Monmouth Street a distance of eighteen and sixty-seven hundredths feet (18.67') more or less, to the POINT OF BEGINNING.

The above described permanent easement contains 3,350 square feet or 0.077 acres more or less, and describes only the area of additional permanent, as shown on EXHIBIT A prepared by SGC Engineering, LLC entitled: "PERMANENT EASEMENT EXHIBIT, TRACT NO. HUD-98.3, OWNER: COLES JERSEY DEVELOPMENT CO., LLC, HUDSON COUNTY, NJ", dated: January 8th 2014, unrecorded but made a part of this easement deed.

Also conveying any rights, title, and interest the Grantor may have within the bounds of Monmouth Street to extend the above described easement across and along said roads.

The intent of this deed is to describe and convey a contiguous permanent easement of varying width, in as much the Grantor has rights from the easterly sideline of Monmouth Street and said lands now or formerly of NEW JERSEY TRANSIT, to an existing permanent easement of TEXAS EASTERN TRANSMISSION, LP. Easement limits propagate by, along, and through the land of the Grantor, to the extent as shown on EXHIBIT A or as a subsequent boundary survey may determine.

Bearings and distances are based on UTM Zone 18 North, NAD 83, US Survey Feet. Distances shown are grid distances; apply appropriate scale factor to convert to ground distances.